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## LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL IMPLEMENTING DECISION authorising the Slovak Republic to introduce a special measure derogating from Article 26(1), point (a), and Articles 168 and 168a of Directive 2006/112/EC on the common system of value added tax

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**COUNCIL IMPLEMENTING DECISION (EU) 2025/...**

**of ...**

**authorising the Slovak Republic to introduce  
a special measure derogating from Article 26(1), point (a),  
and Articles 168 and 168a  
of Directive 2006/112/EC on the common system of value added tax**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax<sup>1</sup>, and in particular Article 395(1), first subparagraph, thereof,

Having regard to the proposal from the European Commission,

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<sup>1</sup> OJ L 347, 11.12.2006, p. 1, ELI: <http://data.europa.eu/eli/dir/2006/112/oj>.

Whereas:

- (1) Articles 168 and 168a of Directive 2006/112/EC govern the right of taxable persons to deduct value added tax (VAT) charged on supplies of goods and services used by them for the purposes of their taxed transactions. Article 26(1), point (a), of that Directive contains a requirement to account for VAT when a business asset is used for private purposes of taxable persons or their staff or, more generally, for purposes other than those of their business.
- (2) By letter registered with the Commission on 5 November 2024, Slovakia requested from the Commission an authorisation, in accordance with Article 395(2), first subparagraph, of Directive 2006/112/EC, to introduce a special measure derogating from Article 26(1), point (a), and Articles 168 and 168a of that Directive to limit to 50 % the right to deduct VAT on expenditure on certain vehicles not wholly used for business purposes, and not to treat as a supply of services for consideration the use for non-business purposes of such a vehicle included in the assets of a taxable person's business where that vehicle has been subject to such a limitation (the 'special measure').

- (3) The requested special measure covers vehicles, not wholly used for business purposes, namely motor vehicles in the category M<sub>1</sub>, as specified in Regulation (EU) 2018/858 of the European Parliament and of the Council<sup>2</sup>, and motorcycles in the categories L1e and L3e, as specified in Regulation (EU) No 168/2013 of the European Parliament and of the Council<sup>3</sup>. The transactions covered are the purchase, intracommunity acquisition and importation of such vehicles, as well as the leasing thereof. The limitation of the right to deduct VAT includes expenditure on spare parts, accessories, services and fuelling intended for such vehicles.
- (4) Certain vehicles should be excluded from the scope of the special measure since, due to the type of business for which they are used, any non-business use thereof is considered to be negligible. Therefore, the special measure should not apply to motor vehicles or motorcycles purchased for resale, hire or lease or used for the transportation of passengers for consideration, including taxi services, the provision of driving lessons, testing purposes or as replacement of vehicles undergoing works.
- (5) In accordance with Article 395(2), second subparagraph, of Directive 2006/112/EC, the Commission transmitted the request made by Slovakia to the other Member States by letter dated 29 November 2024. By letter dated 2 December 2024, the Commission notified Slovakia that it had all the information necessary to consider the request.

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<sup>2</sup> Regulation (EU) 2018/858 of the European Parliament and of the Council of 30 May 2018 on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles, amending Regulations (EC) No 715/2007 and (EC) No 595/2009 and repealing Directive 2007/46/EC (OJ L 151, 14.6.2018, p. 1, ELI: <http://data.europa.eu/eli/reg/2018/858/oj>).

<sup>3</sup> Regulation (EU) No 168/2013 of the European Parliament and of the Council of 15 January 2013 on the approval and market surveillance of two- or three-wheel vehicles and quadricycles (OJ L 60, 2.3.2013, p. 52, ELI: <http://data.europa.eu/eli/reg/2013/168/oj>).

- (6) Slovakia included in the request an explanation of the reasons for setting the percentage for the limitation of the right to deduct VAT at 50 %. Slovakia used for that purpose data obtained from control activities and audits, together with a survey conducted with businesses. According to Slovakia, the results of the analysis of those data led to the setting of the percentage at 50 % as an accurate reflection of the distribution between private and business purposes of the use of the vehicles for which the special measure is intended.
- (7) Slovakia submits that the special measure will have a positive impact with regard to the administrative burden of taxpayers and of tax authorities by simplifying VAT collection and preventing tax evasion through incorrect record-keeping. For those reasons, the Commission considers it to be appropriate to authorise Slovakia to apply the special measure until 30 June 2028.
- (8) The special measure should be limited to the time needed to evaluate the effectiveness and the appropriateness of the percentage limitation applied.
- (9) The special measure is proportionate to the objectives pursued, namely to simplify the procedure for collecting VAT and to prevent certain forms of tax evasion or avoidance, since it is limited in time and scope. In addition, the special measure does not give rise to the risk that fraud would shift to other sectors or to other Member States.

- (10) In the event that Slovakia considers an extension of the special measure beyond 30 June 2028 to be necessary, it should submit to the Commission a request for such an extension by 30 September 2027. That request should be accompanied by a report on the application of the special measure, including a review of the percentage limitation applied.
- (11) According to information provided by Slovakia, the special measure will have only a negligible effect on the overall amount of tax revenue Slovakia collects at the stage of final consumption, and it will have no adverse impact on the Union's own resources accruing from VAT,

HAS ADOPTED THIS DECISION:

## *Article 1*

1. By way of derogation from Articles 168 and 168a of Directive 2006/112/EC, the Slovak Republic is authorised to limit to 50 % the right to deduct value added tax (VAT) on expenditure on the following categories of vehicle, not wholly used for business purposes:
  - (a) motor vehicles in the category M<sub>1</sub>, as specified in Article 4(1), point (a)(i), of Regulation (EU) 2018/858;
  - (b) motorcycles in the category L1e, as specified in Article 4(2), point (a), of Regulation (EU) No 168/2013;
  - (c) motorcycles in the category L3e, as specified in Article 4(2), point (c), of Regulation (EU) No 168/2013.
2. Paragraph 1 shall not apply to vehicles used or purchased for the following:
  - (a) resale, hire or lease;
  - (b) the transportation of passengers for consideration, including taxi services;
  - (c) the provision of driving lessons;
  - (d) testing purposes;
  - (e) as replacement of vehicles undergoing works.

## *Article 2*

By way of derogation from Article 26(1), point (a), of Directive 2006/112/EC, the Slovak Republic is authorised not to treat as a supply of services for consideration the use for non-business purposes of a vehicle as referred to in Article 1(1) included in the assets of a taxable person's business where that vehicle has been subject to a limitation authorised under Article 1 of this Decision.

## *Article 3*

The expenditure referred to in Article 1 shall cover all of the following:

- (a) the purchase, leasing, intra-Community acquisition and importation of vehicles as referred to in Article 1(1);
- (b) expenditure on supplies of goods or services performed in relation to vehicles as referred to in Article 1(1) and the use thereof, including the purchase of fuel.



#### *Article 4*

1. This Decision shall take effect on the date of its notification.
2. This Decision shall apply from 1 July 2025 until 30 June 2028.
3. Any request for the extension of the authorisation provided for in this Decision shall be submitted to the Commission by 30 September 2027 and accompanied by a report which includes a review of the percentage set out in Article 1.

#### *Article 5*

This Decision is addressed to the Slovak Republic.

Done at ..., ...

*For the Council*

*The President*

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